

REMARKS

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the comments which follow.

Claims 1, 2, 4-10, 12-16, 19-24 and 27-36 were pending in this application. In this response, claims 1, 4, 9, and 12 are amended, claims 7, 8, 15, 16, 19-24, and 27-32 canceled and claims 37-40 added. Thus, claims 1, 2, 4-6, 9, 10, 12-14, and 33-40 are pending.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims, the specification, page 8, paragraph 16, page 15 and paragraphs 34 and 35, and Figures 1 and 5.

SPECIFICATION

An amended Abstract was requested in which the corresponding apparatus is presented in more detail. An amended Abstract is included herewith in which the noted details are added. Entry of the amended Abstract is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claims 20, 21, 23, 24, 27, 29, 30 and 32 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention on the grounds set forth beginning at page 2 of the Official Action. The claims have been canceled, so the rejection is moot.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1, 9, 33 and 35 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,654,379 to Matzka (hereafter "*Matzka*.") on the grounds set forth at page 3 of the Official Action.

Applicants respectfully traverse the rejection. Claims 1 has been amended to incorporate the subject matter in previously presented claims 7 and 8, and claim 9 has been amended to incorporate the subject matter in previously presented claims 15 and 16. The Examiner admits that *Matzka* fails to disclose at least the limitations in claims 7-8 and 15-16, because the Examiner failed to reject claims 7-8 and 15-16 using *Matzka*. For at least this reason, Applicants submit that *Matzka* fails to anticipate claims 1, 9, 33, and 35, and thus the rejection should be withdrawn.

Claims 1, 9, 33 and 35 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,502,978 to Field (hereafter "*Field*") on the grounds set forth at page 3 of the Official Action.

Applicants respectfully traverse the rejection. Claims 1 has been amended to incorporate the subject matter in previously presented claims 7 and 8, and claim 9 has been amended to incorporate the subject matter in previously presented claims 15 and 16. The Examiner admits that *Field* fails to disclose at least the limitations in claims 7-8 and 15-16 in the last Office Action on page 6, section 11. For at least this reason, Applicants submit that *Field* fails to anticipate claims 1, 9, 33, and 35, and thus the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 2 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Matzka* on the grounds set forth at page 4 of the Official Action.

Applicants respectfully traverse the rejection. For at least the reasons presented above, *Matzka* fails to disclose all of the limitations of claims 1 and 9. Further, the Examiner did not find previous claims 7-8 and 15-16, which are now incorporated in claims 1 and 9, respectively, obvious over *Matzka* or any combination with other references. Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 4-6, 12-14, 34 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Matzka* in view of by U.S. Patent No. 6,656,423 to Joslyn (hereafter “*Joslyn*”) on the grounds set forth at page 5 of the Official Action. The Examiner alleges that *Matzka* discloses a cooling apparatus (10) that is also considered by the Examiner to be a filler tank.

Applicants respectfully traverse the rejection. Claim 4 recites that the liquid flowing through said reflux path to said storage tank is cooled “below a temperature of the liquid in the filler tank.” Further, claim 12 recites that the apparatus further includes a cooling device “located on said reflux path between the filler tank and the storage tank.” *Matzka* at least fails to disclose these elements of claims 4 and 12. In particular, *Matzka* cools the liquid in the cooling apparatus (10) in which the Examiner considers to be the filler tank, and there is no cooling device other than the cooling apparatus (10) in the *Matzka* system. Further, there is no reason or expectation of success to cool the liquid below the temperature in the cooling apparatus (10) or to add an additional cooling device, because the cooling apparatus (10) is the cooling device for

cooling the liquid in the *Matzka* system. Therefore, the liquid will be its coldest in the “filler tank,” and thus is not cooled below a temperature of the liquid in the filler tank when flowing through said reflux path to said storage tank.

Applicants further submit that *Joslyn* fails to remedy this deficiency in *Matzka*. For at least this reason, the Examiner fails to provide a *prima facie* case of obviousness of claims 4 and 12. Dependent claims 5-6, 13-14, 34 and 36, which depend from claims 4 and 12, respectively, are also not obvious for at least reasons similar to those for claims 4 and 12. Accordingly, Applicants respectfully request withdrawal of the rejection.

Additionally, claim 4 has been amended to incorporate the subject matter in previously presented claims 19 and 22, and claim 12 has been amended to incorporate the subject matter in previously presented claims 28 and 31. The Examiner admits that *Matzka* and *Joslyn* fail to disclose at least the limitations in claims 19, 22, 28 and 31, because the Examiner failed to reject claims 19, 22, 28 and 31 using *Matzka* and *Joslyn*. For at least this reason, Applicants submit that *Matzka* and *Joslyn* fail to render claims 4 and 12 obvious, and thus the rejection should be withdrawn.

Claims 7, 8, 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Field* on the grounds set forth at page 6 of the Official Action. Claims 7-8 and 15-16 are canceled, rendering the rejection moot. However, the rejection is discussed in relation to amended claims 1 and 9, because those claims contain the elements in canceled claims 7-8 and 15-16. The Examiner admits that *Field* fails to disclose a detecting device or means to detect an amount of liquid in the storage reservoir (14), which the Examiner considers to be a filler tank. However, the Examiner alleges that *Field* discloses controlling a pump based on fluid

consumption, and that a tank level sensor is a well known way to determine consumption. From this rationale, the Examiner alleges that it would have been obvious to add a tank level sensor to the filler tank, and to control the reflux pump (21) based on the values provided by the tank level sensor.

Applicants respectfully traverse the rejection as it relates to claims 1 and 9. Applicants submit that the Examiner has misinterpreted the reference, and values from a tank level sensor in the storage reservoir (14) could not be used to control the reflux pump (21) in the *Field* system. First, the Examiner has interpreted the line “pump operation should be directly related to consumption” in *Field* at column 3, line 19, to be similar to the method and system of controlling amount of liquid returned or supplied to a filler tank based on filler tank level in claims 1 and 9. However, the relationship between pump operation and consumption described in *Field*, and the relationship between pump operation and filler tank level in Applicants’ system are completely different. *Field* describes increasing the pump operation if the system is being used infrequently to flush the filter (6). See, e.g., col. 3, ll. 20-22. The pump operation of *Field* is dependent on how often water is extracted from valves 11 or 17, and not how much water is in the storage reservoir (14). The user of the *Field* system would be able to adjust the pump (21) based on the amount of use the user has made of the water from the system, and there would be no reason to know the amount of water in the storage reservoir (14) in order to make the pump operation decision. Further, even if one of ordinary skill in the art would have desired to automate the *Field* system with regard to the pump operation, then the control of the pump would be based on the amount of liquid flowing through valve (17) or the combination of valves (17) and (11). This is true because the amount of liquid flowing through the valves is relevant and the amount of water in the storage reservoir (14) is not relevant to how often the filter (6) is being flushed.

Therefore, there would have been no reason and no expectation of success for one of ordinary skill in the art to add a detecting device to the filler tank and control the amount of liquid supplied or returned based on values from that device as recited in claims 1 and 9.

In addition to there having been no reason to modify the *Field* system as proposed by the Examiner, the proposed modification would fail to work in the *Field* system. The *Field* system is designed to utilize water from a main source, such as a well or municipal water supply. Therefore, the system is based on the fact that water entering a dwelling from a main source has pressure, typically caused by pumps outside the dwelling, that ensures that the water flows through the pipes of the dwelling. Because of the constant water pressure in the lines, the cooling reservoir (7) and storage reservoir (14) stay full, especially when neither of the valves (17) or (11) are open. When the pump (21) is active, water flows through the system from T-joint (25) to T-joint (19) and back to T-joint (25). However generally, regardless of whether the pump is on or off, or how fast the pump is pumping water along line (18), the water pressure from the main source will ensure that the storage reservoir (14) stays full. Therefore, any attempt to use a water level indicator in the storage reservoir (14) to control the pump (21), and thus the amount of water returning from said filler tank, would fail. For at least the above reasons, *Field* fails to render at least this element of claims 1 and 9 obvious.

Additionally, because the water pressure from the main source continues to flow water from that source, there is no reason to believe that the amount of liquid supplied to said filler tank will be equal to the amount of liquid returned from said filler tank, as now recited in claims 1 and 9.

Claims 4, 12, 19, 22, 28 and 31 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Field* in view of *Joslyn* on the grounds set forth at page 7 of the Official Action. The Examiner alleges that *Field* discloses a cooling apparatus (7) that is also considered by the Examiner to be a storage tank.

Applicants respectfully traverse the rejection. Claim 4 recites that “the liquid flowing through said reflux path to said storage tank is cooled below a temperature of the liquid in the filler tank.” Further, claim 12 recites that the apparatus further includes “a cooling device located on said reflux path between the filler tank and the storage tank.” *Field* at least fails to disclose these elements of claims 4 and 12. In particular, *Field* cools the liquid in the cooling reservoir (7), which the Examiner considers to be the storage tank, and there is no cooling device other than the cooling reservoir (7) in the *Field* system. Therefore, the liquid flowing through said reflux path is not cooled as recited in the claim, but instead the liquid in the “storage tank” is cooled after it had already passed through said reflux path. Applicants submit that there is no reason or expectation of success to add an additional cooling device on the reflux path to the cooling reservoir (7). The cooling reservoir (7) is the cooling device for cooling the liquid in the *Field* system, so there would be no reason to cool the liquid prior to the cooling device. Any cooling of the liquid along line (18) would be rendered moot when mixed at T-joint 25 with the water coming from the main source which is not cooled. Additionally, one of ordinary skill in the art would have understood that the distance between the cooling device and storage reservoir, and ultimately valve (17), should be as short as possible to keep the water cool. Therefore, Applicants submit that it would have been unobvious to cool water at a point prior to the cooling reservoir (7) on the reflux path.

Applicants further submit that *Joslyn* fails to remedy this deficiency in *Field*. For at least these reasons, the Examiner fails to provide a *prima facie* case of obviousness of claims 4 and 12. Accordingly, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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